THE MYSORE PAYMENT OF SUBSISTENCE ALLOWANCE BILL, 1972.

(L. A. Bill No. 7 of 1972).

A Bill to provide for payment of subsistence allowance to employees in certain establishments during the period of suspension.

Whereas it is expedient to provide for payment of subsistence allowance to employees in certain establishments during the period of suspension and for matters connected therewith.

It is hereby enacted in the Twenty-third year of the Republic of India by the Legislature of Mysore as follows :—

1. **Short Title, Extent and Commencement.**—(1) This Act may be called the Mysore Payment of Subsistence Allowance Act, 1972.

(2) It extends to the whole of Mysore.

(3) It shall come into force immediately and shall apply to cases pending before a Tribunal or Labour Court.

2 **Definitions.**—In this Act, unless there is anything repugnant in the subject or context.

(a) "employee" means any person employed in or in connection with the work of any establishment to do skilled, semi-skilled or unskilled manual, supervisory, technical, clerical or any other kind of work for hire or reward, whether the terms of employment be express or implied ; but does not include any such person who is employed mainly in a managerial or an administrative capacity or as an out-worker, that is to say, a person to whom any articles or materials are given out by or on behalf of the employer to be made up, cleaned, washed, altered, ornamented finished, repaired, adapted or otherwise processed by such out-worker in any place not under the control and management of the employer ;

(b) "Employer" means the owner of an establishment and includes any person responsible to the owner for supervision and control of the establishment ;

(c) "Establishment" means any place where any industry, trade, business undertaking, manufacture, occupation or service is carried on but does not include any office or department of any Government or any establishment of any railway, major part, mine or oil-field.

(d) "Period of suspension", in a case where express permission of the authority under sub-section (1) of Section 33 of the Industrial Disputes Act, 1947, is necessary before the employment of an employee can be validly terminated, includes the period until such permission

is obtained and termination of service is effected. It also includes the period from the date of termination of an employee in the case of an application uuder Section 33 (2) (b) of the Act where approval is sought for the termination made till the application is disposed off. It further includes the period of suspension pending enquiry.

(e) "Prescribed" means prescribed by rules made under this Act ;

(f) "Suspension" means an interim decision of an employer as a result of which an employee is debarred temporarily from attending his office and performing his functions in the establishment where he is employed, such restriction being imposed on the employee on the ground either that a disciplinary proceeding has already been, or is shortly to be, instituted against him or that a criminal proceeding in respect of an offence alleged to have been committed by him is under investigation or trial and shall be deemed to include the period from the date of which the employer files an application under Section 33 (2) (b) before a Tribunal, National Tribunal or Labour Court till the date of the order of the Tribunal, National, Tribunal or Labour Court thereon.

(g) "Wages" shall have the meaning assisgned to it in clause (rr) of section 2 of the Industrial Disputes Act, 1947.

3. Payment of Subsistence Allowance.—(1) An employee who is placed under suspension shall, during the period of such suspension, be entitled to receive payment from the employer as subsistence allowance an amount equal to fifty per centum of the wages which the employee was drawing immediately before such suspension :

Provided that where the period of suspension exceeds 90 days the amount of subsistence allowance shall be increased after the expiry of 90 days to seventy-five per centum of the wages which the employee was drawing immediately before such suspension.

Provided further that an employee shall not be entitled to any subsistence allowance if he accepts employment during the period of suspension in any place other than the establishment where he had been working immediately before his suspension.

(2) An employee shall not in any event be liable to refund or forfeit any part of the subsistence allowance admissible to him under sub-section (1) but when an employee is exonerated of the charge which caused his suspension the subsistence allowance paid to him for any period shall be adjusted the full wages admissible to him for the same period.

4. **Recovery of Money due from an Employer.**—Where any money is due to an employee from an employer under this Act, the employee himself or any other person authorised by him in this behalf, or, in the case of the death of the employee, his legal representative may, without prejudice to any other mode of recovery, made an application to the State Government is such manner as may be prescribed for the recovery of money due to him, and if the State Government, after giving the employer an opportunity of being heard, in such manner as may be prescribed, is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue ;

Provided that every such application shall be made within one year from the date on which the money became due to the employee from the employer :

Provided further that any such application may be entertained after the expiry of the said period of one year, if the State Government is satisfied that the applicant had sufficient cause, for not making the application within the said period.

5. **Saving of certian Rights and Privileges.**—Nothing in this Act shall affect any right or privilege to which any employee is entitled on the date of commencement of this Act under any law for the time being in force or under any contract, custom or usage which is more favourable to him than any right or privilege conferred upon him by this Act.

6. **Power to crant Exemption.**—The State Government may, if it thinks fit so to do in the public interest, by notification in the Official Gazette, exempt, subject to such conditions, if any, as may be specified in such notification, from the operation of all or any of the provisions of this Act, any class or classes of establishment, for such period or periods and for such reasons as may be specified in the said notification.

7. **Delegation of Powers** —The State Government may by notification in the Official Gazette, direct that any power exercisable by it under this Act or the rules made thereunder shall in relation to such matters and subject to such conditions, if any, as may be specified in such notification, be exercisable also by such officer or authority subordinate to the State Government as may be specified in the said notification.

8. **Protection of Action taken under the Act.**—No. suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

9. **Penalties.**—Whoever contravenes any provision of this Act or any rule made there under shall be punishable with imprisonment for a term which may extend to three months or with fine which shall be not less than one thousand rupees or with both.

10. **Offence by Companies etc.**—Where a person commiting an offence under this Act is a Company or Act is a Company or other body corporate or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management therof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guily of such offence.

11. **Cognisance of Offence.**—(1) No court shall take congnizance of any offence punishable under this Act, sale on complaint made by or under the authority of the the State Government.

(2) No court inferior to that of a Presidency Magistrate or Magistrate of the First Class shall try any offence punishable under this Act.

12. **Power to remove Difficulties.**—If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order publish in the Official Gazette issue such directions not inconsistent with provisions of this Act, as appear to it to be necessary or expe i nt for removing the difficulty.

13. **Power to Make Rules.**—(1) The State Government may, by notification in the Official gazette, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In parcticular and without prejudice to the generality of the foregoing powdr such rules may provide for any matter which may be or is required to be prescribed.

STATEMENT OF OBJECTS AND REASONS.

Under the provisions contained in Section 33 (1), (2) (b) and Sections 33 (1) 33 (2) (b) and 33 (3) of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) and employer is required to file an application seeking permission or approval as the case may be whenever he wants to discharge or dismiss an employee/a workman till the permission is granted or till the approval is secured at the hands of the Tribunal/Labour Court the dismissal or discharge is not considered as final. During the pendency of such an application for approval or permission the employee/workman has to make arrangements for

defending himself, attend all the proceedings before the Labour Court or Tribunal ; in addition he cannot take employment elsewhere ; the prospects of his getting employed elsewhere when the proceedings are pending against him may not always be very bright. The situation causes considerable hardship to the workman concerned. At present there s no provision for any subsistence allowance being paid during the pendency of the proceedings. Hence with a view to reduce the hardship that may be caused to the workman during the pendency of such proceedings it is proposed in the Bill that the workman be paid a subsistence allowance by the employer during the pendency of such applications before Tribunals or Labour Courts. In additlon, there is need for statutory provision for payment of subsistence allowance during the period of suspension pending enquiry. In West Bengal there is already a legislation on the above lines and the President was pleased to give his assent to such an amending legislation. No financial expenditure is involed and there is no Financial Memorandum.

M S. KRISHNAN,

Member, Legislative Assembly.

Te. HANUMANTHAPPA,

Secretary.

THE MYSORE CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 1972.

(L. A. Bill No. 8 of 1972)

A bill further to amend the Mysore Co-operative Societies Act, 1959 ;

WHEREAS it is expedient further to amend the Mysore Co-operative Societies Act, 1959 (Mysore Act 11 of 1959) ;

BE it enacted by the Mysore State Legislature in the Twenty-third Year of Republic of India as follows :—

1. **Short title and Commencement** —(1) This Act may be called the Mysore Co-operative Societies (Amendment) Act, 1972 ;

2. **Insertion of new sub-section to Section 70 :—**